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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,131	10/22/2003	Leandro Rizzuto JR.	892.0033USU	5342

7590 07/13/2005

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EXAMINER

WILLATT, STEPHANIE L

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/691,131	Applicant(s) RIZZUTO, LEANDRO	
	Examiner Stephanie L. Willatt	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/26/04, 9/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 3-6, 8, 11, and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Berthelsen (1,591,207).

Berthelsen discloses a hair styling tool comprising a handle portion (11) having a pair pivotally connected arms. Each arm has a hair contacting element (upper plate 20 and lower plate 21). The hair contacting element (upper plate 20 and lower plate 21) has apertures (33) therein. The arms are pivotally connected at a proximal end thereof (lines 67-76 of page 1). The contacting element (upper plate 20 and lower plate 21) is operatively located at a distal end of the tool. The hair contacting element (upper plate 20 and lower plate 21) is a heat conductive plate and thermally interactive with the hair styling tool to effectively apply heat to selected portions of hair as desired (lines 41-64 of page 2). The hair contacting surface is corrugated, as discussed in lines 92-95 of page 1. Regarding claims 2 and 11, the grooves created by the corrugated shape of the hair contacting surface could be considered an aperture and the "apertures (33)" could be

considered vents, as they are actually used for venting. The grooves and the "apertures (33)" align with each other.

3. Claims 1, 3-7, 9-11, and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuiji et al. (5,223,694).

In Figures 1-12, Tsuiji et al. disclose a hair styling tool comprising a handle portion having a pair pivotally connected arms (30 & 60, 40). Each arm (30 & 60, 40) has a hair contacting element (pipes 10 & 50, 20). One hair contacting element (pipe 10 & 50) has apertures (perforations 51) therein. The arms (30 & 60, 40) are pivotally connected at a proximal end thereof. The contacting element (pipe 10 & 50) is operatively located at a distal end of the tool. The hair contacting element (pipe 10 & 50) is a heat conductive plate and thermally interactive with the hair styling tool to effectively apply heat to selected portions of hair as desired (column 5, lines 5-33). The hair contacting element (pipe 10 & 50, 20) has a hair contacting surface that is substantially planar. The apertures (perforations 51) are in communication with vents (12) of the hair styling tool to vent moisture. The vents (12) are in the distal end of the arms align with the apertures (perforations 51).

4. Claims 1-8, are rejected under 35 U.S.C. 102(b) as being anticipated by Lo (6,223,753).

Lo discloses a hair styling tool comprising a handle portion having a pair pivotally connected arms (see Figure 6 for configuration of arms). Each arm has a hair

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contacting element (styling surfaces 24, 241). The hair contacting elements (styling surface 241) has apertures (hole 232) therein (Figure 2 shows the details of the contacting element). The arms are pivotally connected at a proximal end thereof. The contacting element (styling surfaces 24,241) is operatively located at a distal end of the tool. The hair contacting element (styling surfaces 24,241) is a heat conducive plate and thermally interactive with the hair styling tool to effectively apply heat to selected portions of hair as desired (column 2, lines 29-49). Regarding claims 7 and 8, the hair contacting element has a hair contacting surface (styling surfaces 24,241) that is substantially planar (Figure 6) and another hair contacting surface (styling surfaces 24,241) that is corrugated (Figure 2). Regarding claim 2, the grooves of the corrugated hair contacting surface element (styling surfaces 24,241) could be considered apertures.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berthelsen (1,591,207) in view of Lo (6,223,753).

Berthelsen discloses the features discussed above, but does not disclose that the hair contacting element has a hair contacting surface that is substantially planar. However, Berthelsen does disclose that the hair contacting surface may be configured in any desired configuration in lines 89-92 of page 1. Lo discloses a hair contacting surface that is straight in Figure 6. The hair contacting surface is straight so that it may straighten hair, as discussed in column 3, lines 27-30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hair contacting surface of Berthelsen straight, as taught by Lo, in order to provide a way of straightening hair.

7. Claims 12, 13, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (5,223,694) in view of Lo (6,223,753).

Tsuji et al. discloses the features discussed above, but does not disclose that the hair contacting surface is corrugated. Lo discloses a hair styling device similar to Tsuji et al. that has a corrugated contacting surface (241), as shown in Figure 5. As discussed in column 2, lines 29-38, the corrugation creates hairstyles with waves. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the contacting surface of Tsuji et al. corrugated, as taught by Lo, in order to create a hairstyle with waves.

Tsuji et al. discloses the features discussed above, but does not disclose a tongue and groove. Lo discloses a hair contacting element including a tongue (projection 242) and groove (231) providing an easier way to alternate between flat and

corrugated hair contacting surfaces. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hair contacting element of Tsuji et al. with a tongue and groove, as taught by Lo, in order to provide an easier way to alternate between flat and corrugated hair contacting surfaces.

Conclusion

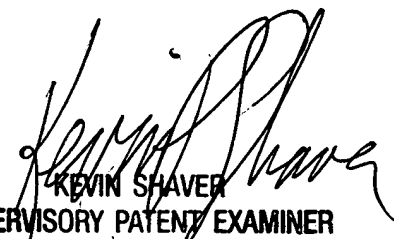
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lo (6,667,462) discloses a hair styling device with both planar and corrugated hair contacting surfaces. Hafeman (6,895,975) discloses a hair styling device with vents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


slw


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